

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

September 19, 2013 Meeting
Agenda Item 2

SUBJECT: 216 Crystal Variance - (PA2013-118)
216 Crystal Avenue
▪ Variance No. VA2013-005

APPLICANT: Art Kent

PLANNER: Melinda Whelan, Assistant Planner
(949) 644-3221, mwhelan@newportbeachca.gov

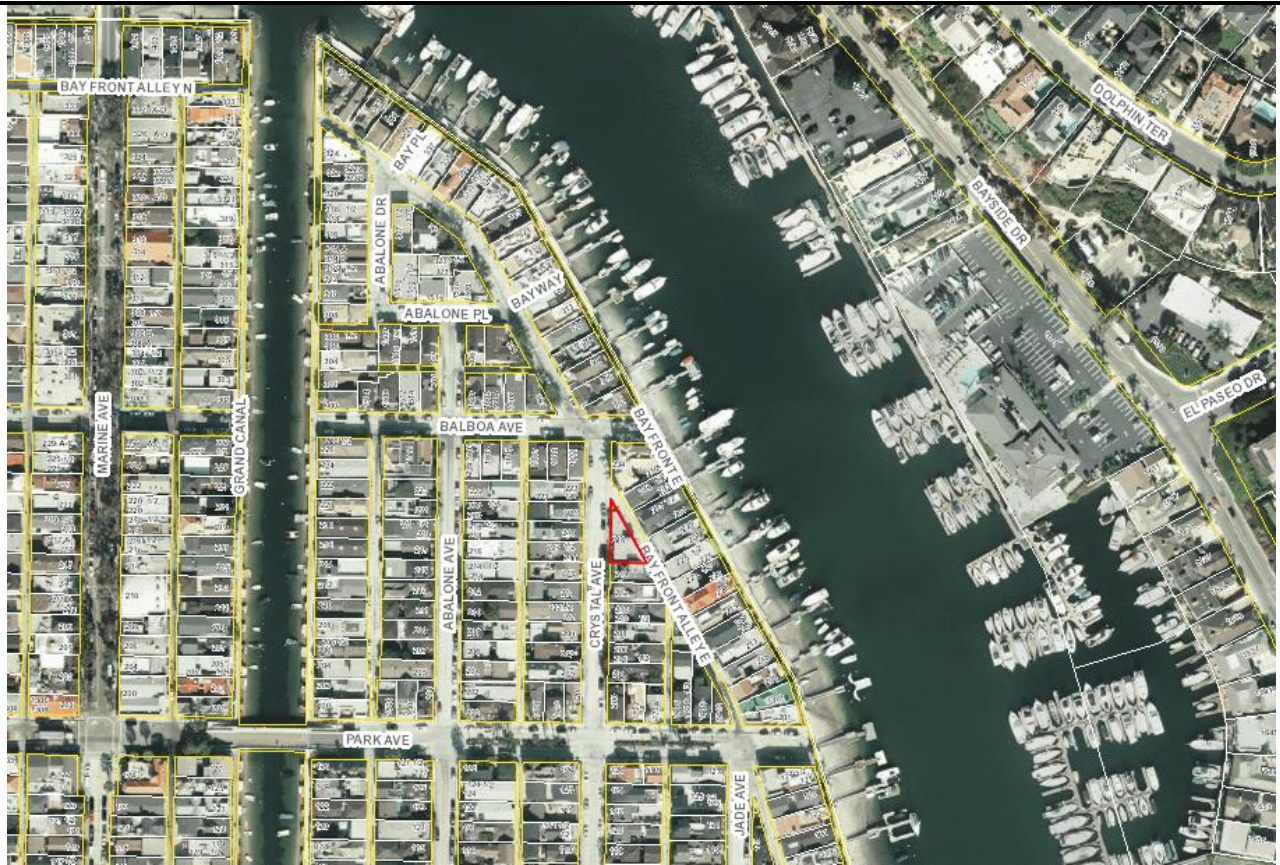
PROJECT SUMMARY

A request for a variance to allow the following improvements to an existing nonconforming duplex: 1) a second story addition which would exceed the maximum allowed floor area; 2) an addition greater than 10 percent of the existing square footage without providing the required number of parking spaces (two garage spaces per unit); and 3) encroachment into the 4-foot side yard setback along E. Bay Front Alley.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ approving Variance No. VA2013-005 (Attachment No. PC 1).

VICINITY MAP



GENERAL PLAN



ZONING



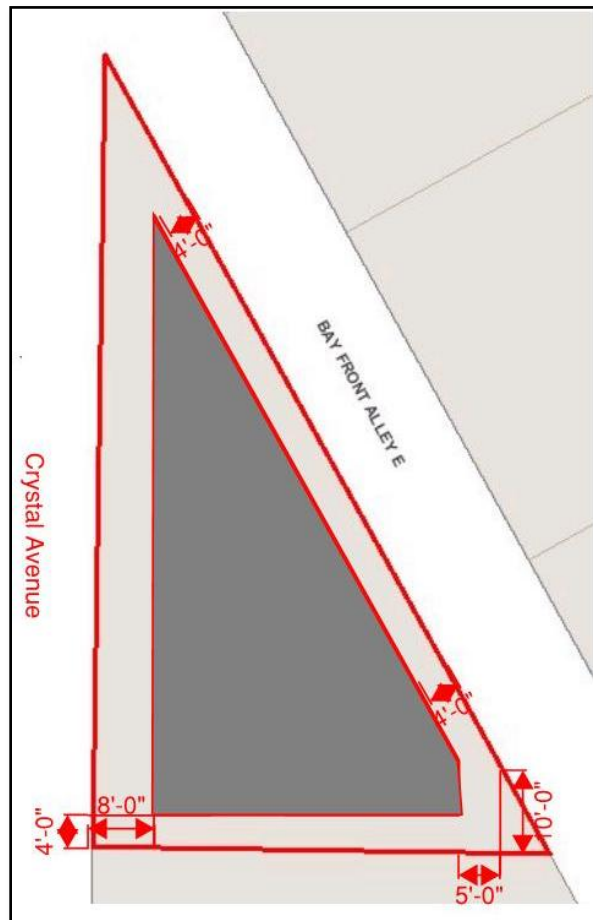
LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Two-Unit Residential (RT)	Balboa Island (R-BI)	Duplex
NORTH	RT	R-BI	Single-Family Dwelling
SOUTH	RT	R-BI	Single-Family Dwelling
EAST	RT	R-BI	Duplex
WEST	RT	R-BI	Duplex

INTRODUCTION

Project Setting

The subject property is a triangular shaped lot coming to a point at the intersection of Crystal Avenue and E. Bay Front Alley on Little Balboa Island. The property is improved with a 2,417-square-foot, two-story duplex with two-one-car garages. Its triangular shape results in only three property lines: a 94.72-foot front lot line along Crystal Avenue, a 109.65-foot side property line along E. Bay Front Alley, and a 54-foot property line shared with a neighbor to the south. The gross lot area is 2,586 square feet. Figure 1 shows the buildable area (shaded) per the Zoning Code required setbacks.

Figure 1 – Buildable Area and Setbacks of Project Site



The existing duplex, which was permitted in 1951, is nonconforming because it exceeds the maximum allowed floor area by 51 square feet. Additionally, the duplex encroaches into the setbacks as follows: 1 foot into the 8-foot front yard setback on the first floor; 1 foot 6 inches into the side yard setback along E. Bay Front Alley on the first and second floor; and 1 foot into the 4-foot side yard setback to the south. The duplex is also non-

conforming because it provides only a one-car garage for each unit where two spaces per unit are required. Table 1 provides the details of each existing unit.

Table 1 Existing Duplex

	Unit – 1 (downstairs)	Unit – 2 (upstairs)
Floor Area	916 sq. ft. (1 st Floor Only)	308 sq. ft. (1 st Floor) 743 sq. ft. (2 nd Floor)
Bedrooms	1 bedroom	2 bedrooms
Parking	1-car garage	1-car garage

Project Description

The applicant requests a variance to add 378 square feet to the second story of one of the units, encroachment into the side yard setback along E. Bay Front Alley, and maintaining the existing non-conforming parking. The existing duplex exceeds the 2,366-square-foot maximum allowed floor area (including 200 square feet for enclosed garages) by 51 square feet. With the addition, the structure would exceed the maximum by 429 square feet. The addition includes a master bedroom and a balcony on the second floor that would encroach 1foot 6 inches into the side yard setback along the E. Bay Front Alley, consistent with the existing first and second floor. The addition and balcony would maintain the front yard setback of 8 feet.

DISCUSSION

Analysis

General Plan, Local Coastal Plan, and Zoning Code

The Land Use Element of the General Plan designates the subject property for Two-unit Residential (RT) uses. The RT category applies to a range of two-family residential dwelling units such as duplexes and townhomes, but also permits single-family dwellings. The Coastal Land Use Plan designates the subject property as High Density Residential (RH-A), 20.1-30 Dwelling Units/Acre. Two-family dwellings are permitted within this designation. The subject property is located within the R-BI (Balboa Island) Zoning District. The R-BI District allows for single-family and two-family dwelling units. The proposed project will conform to all the required zoning regulations of the R-BI zoning district, with the exception of the increased floor area requested, the existing nonconforming parking and the existing and proposed encroachments into the setbacks.

Floor Area Variance

The Zoning Code permits structures within the R-BI District to have a total gross floor area equal to 1.5 times the buildable area. The buildable area of a lot is the lot area minus the area of required setbacks. Section 20.18.030 of the Zoning Code excludes 200 square feet of floor area used for enclosed parking of two or more spaces within the

R-BI District from the calculation of the gross floor area. Using this formula, the maximum allowable gross floor area for the subject lot is 2,166 square feet plus 200 square feet for an enclosed garage for a total of 2,366 square feet. The existing duplex has a floor area of 2,417 square feet including two single-car garage spaces. Figure 2 shows the block of the subject property with lots 204 through 210 Crystal Avenue considered typical lots.

Figure 2 - Arial of Block



Table 2 shows how the setbacks impact the floor area to land area ratios for the subject lot and other lots in the vicinity.

Table 2 Floor Area and Setback Comparison

	Subject Lot Required	Typical Lot in the Block¹	Proposed
Front Setback (Crystal); and Front Setback Area	8 ft.; 758 sq. ft.	8 ft.; 240 sq. ft.	7 ft. existing. Proposed 8 ft. for 2 nd floor addition and balcony. Bay window encroaching per Code.
Side Setback (E. Bay Front Alley)	4 ft. (Lot is wider than 40')	3 ft. (Less than 40' wide)	2 ft. 6 in. proposed for addition and balcony consistent with existing nonconforming setback.
Side Setback (south)	4 ft. (Lot is wider than 40')	3 ft. (Less than 40' wide)	3 ft. existing nonconforming (No change)
Rear Setback (E. Bay Front Alley)	5 ft.	5 ft.	5 ft. (No change)
Gross Lot Area	2,586 sq. ft.	2,550 sq. ft.	No change
Buildable Area	1,444 sq. ft.	1,728 sq. ft.	No change
Maximum Floor Area (Buildable Area x 1.5)	2,166 sq. ft. ²	2,592 sq. ft. ²	2,595 sq. ft. ¹
Floor Area to Land Area Ratio	0.84	1.02	1.00

(1) Typical lot dimensions are 30' x 85'

(2) Excluding the 200 square foot floor area exception for providing two or more enclosed parking spaces within the R1.5 District.

The triangular shaped lot creates an exceptionally long, approximately 95-foot front lot line along Crystal Avenue resulting in an unusually large 758-square-foot front setback area. This front setback area is more than three times the size of a typical lot within the block which have a 240-square-foot front setback area. This is also an unusually large setback area for Balboa Island. On triangular lots, as discussed previously, a rear lot line is created where there is a minimum width of at least 10 feet and then the rear yard setback is measured from this line thus further reducing the buildable area of the lot. Also, due to the shape, there are areas created that are unusable for enclosed floor area. The large front setback area, combined with the unusual shape of the lot, results in what a disproportionate reduction in buildable area when compared to a typical rectangular shaped lot.

On prior occasions, the Planning Commission assessed the “floor area ratio” (FAR) to determine an appropriate floor area for variance requests for unusually sized and shaped lots. Strict application of the Zoning Code requirement of the 1.5 floor area limit to the subject site allows a maximum of 2,166 gross square feet, which results in a FAR of 0.84 (excluding the 200 square foot allowance for garages). The FAR of a typical lot within the block is 1.02 (excluding the 200 square foot allowance for garages). The existing duplex exceeds the maximum floor area by 51 square feet and has an existing FAR of 0.86 (excluding the 200 square foot allowance for garages). The applicant’s requested variance to add 378 square feet to one of the existing units creates a floor area of 2,595 square feet (excluding the 200 square foot floor area exception for providing two enclosed parking spaces) and results in a 1.00 FAR, which is consistent with the typical lots within the vicinity (block). The proposed structure would not be out of proportion to the other dwellings within the immediate neighborhood and throughout Balboa Island. Table 3 details recent variances granted on Balboa Island.

Table 3 Floor Area Variance Comparisons

	216 Crystal (Subject)	212 Crystal (2007)	201 Crystal (2007)	201 Apolena (2002)	303 Crystal (1993)
Gross Lot Area	2,586 sq. ft.	2,406.9 sq. ft.	1,500 sq. ft.	2,400 sq. ft.	1,675 sq. ft.
Buildable Area	1,444 sq. ft.	1609.6 sq. ft.	570 sq. ft.	950 sq. ft.	1,223 sq. ft.
Maximum Floor Area	2,166 sq. ft. ¹	2,414 sq.ft. ¹	855 sq. ft. ¹	1,625 sq. ft.	1,834.5 sq. ft.
Floor Area Permitted by Variance	2,595 sq. ft. + 200 sq. ft. ² = 2,795 sq. ft. (Proposed)	2,458 sq. ft. + 200 sq. ft. ² = 2,658 sq. ft. (VA2006-001)	1,560 sq. ft. + 200 sq. ft. ² = 1,760 sq. ft. (VA2002-001)	2,295 sq. ft. +200 sq. ft. ² = 2,495 sq.ft. (VA2002-001)	1,738 sq. ft. + 200 sq. ft. ² = 1,938 sq. ft. (VA No. 1186)
Floor Area Ratio Per Variance	1.00	1.02	1.04	1.04	1.16

(1) Per Section 20.10.030(M) 2 of the Zoning Code, 200 square feet of floor used for enclosed parking of two or more spaces within the R1.5 District shall not be included in the calculation of the gross floor area.

(2) Subject to a variance for the increased floor area.

Exceed 10 Percent Addition – Nonconforming Parking

The nonconforming parking section of the Zoning Code, Section 20.38.060, allows existing development with less than the required parking to add up to 10 percent of the existing square footage as long as the gross floor area does not exceed the maximum allowed by the Zoning Code. Section 20.38.060 is intended to allow the addition of bedrooms or small expansions that do not intensify the use of existing dwellings. However, since the existing square footage exceeds Zoning Code maximum by 51 square feet, the proposed addition requires that the parking also be addressed by the Variance. The existing duplex has maintained a one-car garage for each unit since 1951. The irregularly shaped buildable

area limits the ability to create additional parking without completely removing the first-floor unit. The addition is a 15.6 percent increase of the existing gross floor area.

Side Yard Encroachment along E. Bay Front Alley

The existing duplex was built with a 2-foot-6-inch setback along E. Bay Front Alley. A variance is required for the proposed second-floor addition to maintain this setback. The triangular shaped lot and unusually large front-yard setback area results in limited buildable area; therefore, this encroachment is justified in providing living conditions consistent with modern living standards. The existing and proposed encroachment does not abut another residential development; therefore, adequate light, air, and separation is maintained. The 2-foot-6-inch setback allows sufficient vehicular access for two-direction travel within the alley and access to garages for the adjacent residential units.

Variance Findings

Section 20.52.090.F (Variances, Findings and Decision) of the Zoning Code requires the Planning Commission to make the following findings before approving a variance:

- A. *There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;*
- B. *Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification;*
- C. *Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;*
- D. *Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;*
- E. *Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and*
- F. *Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.*

The subject lot is an irregular shaped, triangular lot which results in a smaller and limited buildable area as compared to typical lots within the block and the Balboa Island neighborhood. The triangular shape results in an exceptionally long, 94.72-foot front lot

line along Crystal Avenue and unusually large 758-square-foot front setback area. This front setback area is more than three times that of a typical lot with a 240-square-foot front setback area. The irregular shape and large setback results in a buildable area of 1,444 square feet where a typical lot in the block has 1,728 square feet; and a FAR that is 0.84 (excluding the 200-square-foot allowance for garages) where a typical lot in the block has an FAR of 1.02 (excluding the 200-square-foot allowance for garages). The requested variance to exceed the 1.5 floor area limit for a duplex that has a floor area of 2,595 square feet (excluding the 200-square-foot allowance for garages) results in a 1.00 FAR, which is less than typical lots within the block. It allows the property the right to maintain the duplex with a similar FAR to other residential development on Balboa Island.

The unusual shape of the lot with the strict application of the 8-foot front yard setback along the approximately 95-foot lot line along Crystal Avenue and the 4-foot side yard setback along E. Bay Front Alley limits the buildable area to accommodate usable enclosed floor area and outdoor areas. The second story addition maintains the existing 2-foot, 6-inch setback and is not abutting a residential lot; therefore, providing adequate light, air, and separation. The encroachment provides usable floor area and outdoor living area while maintaining the existing adequate access for two-way direction of travel in the alley and garage access for the residents in the surrounding area. The proposed encroachment does not result in a special privilege because a typical lot within the block enjoys a 24-foot wide rear yard setback abutting alley of which they can encroach into with a second floor up to 2 feet 6 inches from the property line by right per the Zoning Code.

The existing duplex was built in 1951 with one-car garages for each unit. The irregularly shaped buildable area prohibits the ability to create additional parking without completely removing the first-floor unit, Unit-1. For a typical lot on Balboa Island that is developed with a duplex constructed per an old Zoning Code requirement of one garage space per unit, a 10 percent addition is permitted up to the maximum square footage allowed. Additions within the 10 percent often accommodate a room addition.

The addition and the existing duplex meet the height limits of the R-BI Zoning Designation. The requested Variance is consistent with the intent of the Zoning Code and the General Plan because the proposed deviations from the Zoning Code allow for the maintenance of an existing duplex with a comparable FAR to other properties within the block and neighborhood of Balboa Island. The addition maintains the design of the existing duplex that provides usable open volume area, articulation and modulation resulting in bulk that is consistent with other properties in the block and neighborhood of Balboa Island. The addition of the master bedroom is comparable to additions that are provided for by right within the Zoning Code for existing duplexes of a similar size that have less than the required number of parking spaces. Staff, therefore, recommends Planning Commission approval based on the discussion and facts above and findings included in the draft resolution. Conditions of approval have been incorporated into the attached draft resolution (Attachment No. PC 1).

Alternatives

1. The Planning Commission may suggest specific changes that are necessary to alleviate concerns. If any additional requested changes are substantial, the item should be continued to a future meeting to allow a redesign or additional analysis. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachment No. PC 2).

Environmental Review

The project categorically exempt under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities) of the implementing Guidelines of the California Environmental Quality Act as the project is an addition to an existing structure and is located on a developed site with no environmentally significant resources present.

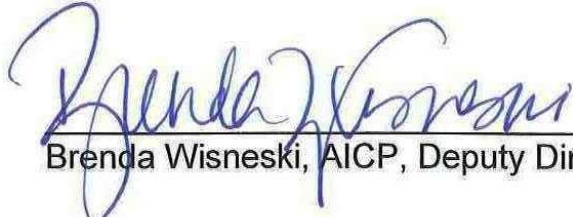
Public Notice

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Melinda Whelan
Assistant Planner

Submitted by:


Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

- PC 1 Draft Resolution for Approval
- PC 2 Draft Resolution for Denial
- PC 3 Project Plans Including Color Renderings

Attachment No. PC 1

Draft Resolution

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING VARIANCE NO. VA2013-005 FOR AN ADDITION TO AN EXISTING DUPLEX LOCATED AT 216 CRYSTAL AVENUE PA2013-216

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Art Kent, with respect to property located at 216 Crystal Avenue, and legally described as Lot 9, Block 5 requesting approval of a Variance.
2. The applicant requests a variance to allow the following improvements to a nonconforming duplex with an existing square footage of 2,417 square feet: 1) a second story addition of 378 square feet which would exceed the maximum allowed floor area of 2,366 square feet; 2) an addition greater than 10 percent of the existing square footage and beyond the maximum allowed square footage without providing the required number of parking spaces (2 per unit in a garage); and 3) a 1-foot-6-inch encroachment into the 4-foot side yard setback along East Bay Front Alley.
3. The subject property is located within the Balboa Island (R-BI) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is High Density Residential (RH-A), 20.1-30 Dwelling Units/Acre.
5. A public hearing was held on September 19, 2013, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines – Class 1 (Existing Facilities).
2. The project is an addition to an existing structure that is less than 50 percent of the existing structure and is located on a developed site with no environmentally significant resources present.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.090 F. of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification; and

Facts in Support of Finding:

1. The subject lot is an irregular triangular shaped lot which results in a smaller and unusually shaped buildable area from that of typical lots within the block and the Balboa Island neighborhood.
2. The irregular triangular shaped lot results in an exceptionally long, 94.72-foot front lot line along Crystal Avenue and an unusually large 758-square-foot front setback area. This front setback area is more than three times that of a typical lot with a 240-square-foot front setback area.
3. The irregular shape with the unusually large setback results in a buildable area of 1,444 square feet where a typical lot in the block has 1,728 square feet; and a FAR that is 0.84 where a typical lot in the block has an FAR of 1.02.
4. The irregular shape creates an unusual shape of buildable area which is difficult to provide enclosed floor area and usable outdoor living area without encroaching into the setback as proposed to be consistent with the existing structure.
5. The existing duplex was built in 1951 with one-car garages for each unit. The irregularly shaped buildable area and prohibits the ability to create additional parking without eliminating the habitable area of the first floor unit.

Finding:

B. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification; and

Facts in Support of Finding:

1. Applying the 8-foot front yard setback requirement along the unusually long, approximately 95-foot front lot line results in a larger setback area and smaller buildable area than a typical lot within the block and within the Balboa Island neighborhood. Strict application of the Zoning Code required floor area limit (FAL =

buildable area X 1.5) to the subject property allows a maximum area of 2,166, which results in a FAR of 0.84 (excluding the 200 square foot allowance for garages on Balboa Island). The allowed FAR of a typical lot with a 240-square-foot front yard setback within the same block is 1.02 (excluding the 200-square-foot allowance for garages).

2. Additionally, the unusual shape of the lot with the strict application of the 8-foot front yard setback along the approximately 95-foot lot line along Crystal Avenue and the 4-foot side yard setback along E. Bay Front Alley limits the buildable area adequate to accommodate usable enclosed floor area as well as usable outdoor areas. The addition and balcony maintains the existing 2-foot-6-inch setback and is not abutting a residential lot therefore providing adequate light, air, and separation. Furthermore, the encroachment provides usable floor area and outdoor living area and maintains adequate access for 2-way direction of travel in the alley and garage access for the residents in the surrounding area.
3. The existing duplex was permitted in 1951 to provide 1-car garage per unit, per the Zoning Code in affect at that time. Unit-1 occupies the majority of the first floor with one bedroom and 916 square feet. For a typical lot on Balboa Island that is developed with an existing duplex constructed per an old Zoning Code requirement of one garage space per unit, a 10 percent addition is permitted up to the maximum square footage allowed by the Zoning Code. Additions within the 10 percent often accommodate a room addition.

Finding:

C. Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant; and

Facts in Support of Finding:

1. The unusually large setback area and unusual triangular shape is not typical of other lots within the block or on Balboa Island and significantly limits the floor area and buildable area.
2. The requested variance to exceed the 1.5 floor area limit for a duplex that has a floor area of 2,595 square feet (excluding the 200 square feet allowed for garages) results in a 1.00 FAR, which is consistent with the typical lots within the block and allows the property the right to maintain the duplex with a similar FAR to other residential development on Balboa Island.
3. The proposed encroachment into the side yard setback, consistent with the existing structure, is reasonable in this case due to the unusual triangular shape that limits the buildable area. The encroachment would afford the property owner a more usable buildable area.

4. The duplex has existed since 1951 with a one-car garage for each unit. The existing structure and lot characteristics provide no additional area on the first floor to add more parking without removing Unit-1.

Finding:

D. Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district; and

Facts in Support of Finding:

1. The FAR is a method to compare the maximum square footage allowed on a site based on the lot size. Using an FAR comparison to determine the appropriate maximum square footage allowed on a site provides equity for sub-standard lots without granting a special privilege. The proposed floor area results in an FAR of 1.00 (excluding the 200 square feet allowed for garages), which is less than the 1.02 FAR of typical lots within the block, ensuring that the increased floor area does not result in a special privilege not enjoyed by other property owners in the vicinity.
2. The proposed side yard setback along E. Bay Front Alley of 2 feet 6 inches is consistent with the existing structure does not result in a special privilege because a typical lot within the block enjoys a 24-foot-wide rear yard setback abutting the alley of which an encroachment to within 2 feet 6 inches of the property line is allowed on the second floor by right. Additionally, the side yard is not abutting a residential lot as do the typical side yards within the block.
3. The existing duplex has been maintained with only a one-car garage for each unit since 1951. For a typical lot on Balboa Island that is developed with a duplex constructed per an old Zoning Code requirement of one garage space per unit, a 10 percent addition is permitted up to the maximum square footage allowed. Additions within the 10 percent often accommodate a room addition.

E. Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and

Facts in Support of Finding:

1. The size of the duplex with the proposed addition is proportionate to other single-family and duplexes within the block and neighborhood of Balboa Island.
2. The proposed addition that encroaches 1 foot 6 inches into the side yard setback along E. Bay Front Alley still provides 2 feet 6 inches in line with the existing structure that is an adequate setback consistent with the neighborhood pattern of

development ensuring the protection of air, light, and separation with adjacent properties.

3. The proposed encroachment is abutting an alley and it does not inhibit circulation or access of the subject lot or of lots across the alley.
4. The design of the structure includes articulation, modulation, and open volume with an existing balcony and a new balcony.
5. Duplexes within the Balboa Island neighborhood were typically built with one-car garages for each unit, were built with smaller than your average dwelling unit, and are typically afforded small one-room additions, per the non-conforming section of the Zoning Code, that are not considered as detrimental to the neighborhood.

F. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.

Facts in Support of Finding:

1. The intent of floor area limits (FAL) is to ensure each residential structure can be developed with a reasonable sized dwelling in relationship to the lot size and setbacks; however, in this case, utilizing the FAL disproportionately reduces the buildable area on this lot due to the irregular triangular shape and the larger front yard setback requirement. Additional floor area above the allowed FAL, would provide for the construction of a master bedroom addition that allows the existing duplex to be consistent with other developments within the block and within the Balboa Island neighborhood.
2. The intent of the side yard setback is to provide adequate separation for light, air, and usable outdoor living space adjacent to other residential properties. The proposed 2-foot-6-inch setback along E. Bay Front Alley leaves adequate separation for light, air as it is abutting the alley and is not a typical side that abuts a residential development. On Balboa Island, most properties have a 24-foot-long, 5-foot-deep rear yard setback abutting the alley which, per the Zoning Code a second floor can cantilever to within 2 feet 6 inches of the property line. The encroachment also allows the proposed balcony to create usable outdoor living space within the irregularly shaped area.
3. The addition and the existing duplex meet the height limits of the R-BI Zoning Designation.
4. The requested Variance is consistent with the intent of the Zoning Code and the General Plan because the proposed deviations from the Zoning Code allow for the maintenance of an existing duplex with a comparable FAR to other properties within the block and neighborhood of Balboa Island. The addition maintains the design of the existing duplex that provides usable open volume area, articulation and modulation resulting in bulk that is consistent with other properties in the block

and neighborhood of Balboa Island. The addition of the master bedroom is comparable to additions that are provided for by right within the Zoning Code for existing duplexes of a similar size that have less than the required number of parking spaces.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Variance No. VA2013-005, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 19th DAY OF SEPTEMBER, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Bradley Hillgren, Chairman

BY: _____
Kory Kramer, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The master bedroom addition and balcony shall maintain the 8-foot front yard setback and shall not encroach further than the existing structure into the E. Bay Front Alley side yard setback maintaining 2 feet 6 inches to the property line.
4. The gross square footage including the garages with the addition of the master bedroom shall not exceed 2,795 square feet.
5. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
7. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Variance file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Variance and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
8. Prior to issuance of building permits, approval from the California Coastal Commission shall be required.
9. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
10. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.

11. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
12. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the 216 Crystal Avenue Variance including, but not limited to, the Variance No. VA2013-118. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division Conditions

13. The development shall comply with the Residential Code CRC 2010.
14. The garages shall provide a minimum door opening of 8-feet-wide for car.
15. Building shall be one hour rated construction due to unit overlapping conditions and to include sound rating.
16. For the purpose of fire protection ratings of exterior walls and opening, the center line of the alley may be considered the property line.
17. The development site is subject to liquefaction zone policy and flood Zone; therefore, the structure shall comply with liquefaction and FEMA guideline policy.

Attachment No. PC 2

Draft Resolution for Denial

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING VARIANCE NO. VA2013- 005 FOR AN ADDITION TO AN EXISTING DUPLEX LOCATED AT 216 CRYSTAL AVENUE PA2013-216

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Art Kent, with respect to property located at 216 Crystal Avenue, and legally described as Lot 9, Block 5 requesting approval of a Variance.
2. The applicant requests a variance to allow the following improvements to a nonconforming duplex with an existing square footage of 2,417 square feet: 1) a second story addition of 378 square feet which would exceed the maximum allowed floor area of 2,366 square feet; 2) an addition greater than 10 percent of the existing square footage and beyond the maximum allowed square footage without providing the required number of parking spaces (2 per unit in a garage); and 3) a 1-foot-6-inch encroachment into the 4-foot side yard setback along East Bay Front Alley.
3. The subject property is located within the Balboa Island (R-BI) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is High Density Residential (RH-A), 20.1-30 Dwelling Units/Acre.
5. A public hearing was held on September 19, 2013, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines – Class 1 (Existing Facilities).
2. The project is an addition to an existing structure that is less than 50 percent of the existing structure and is located on a developed site with no environmentally significant resources present.

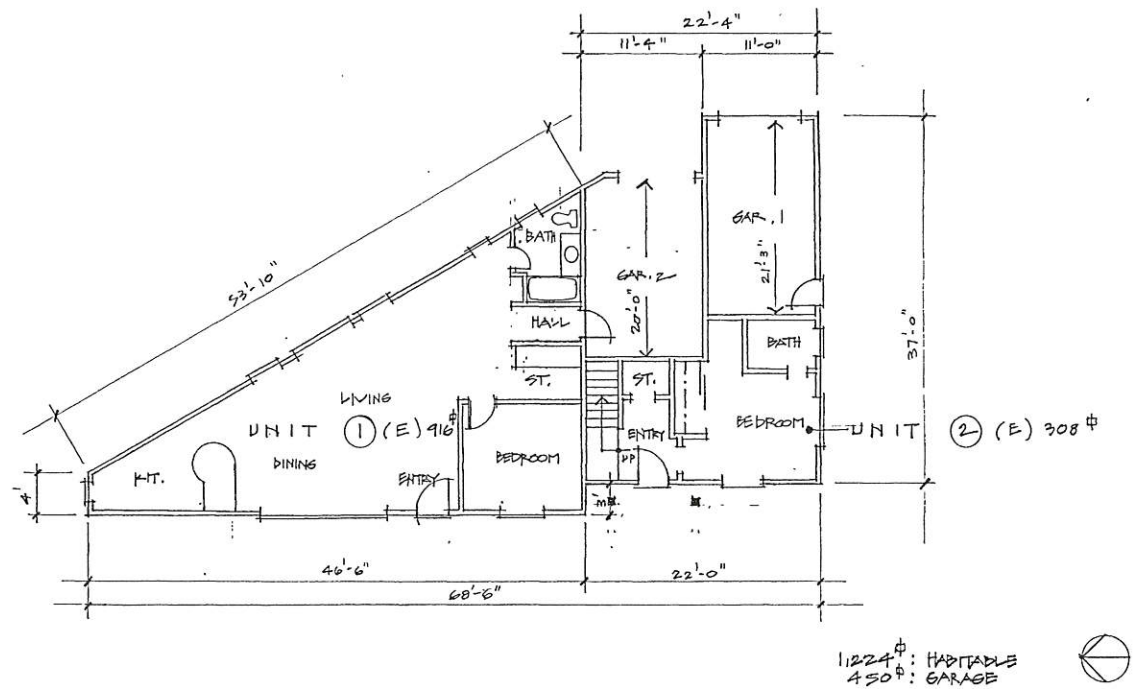
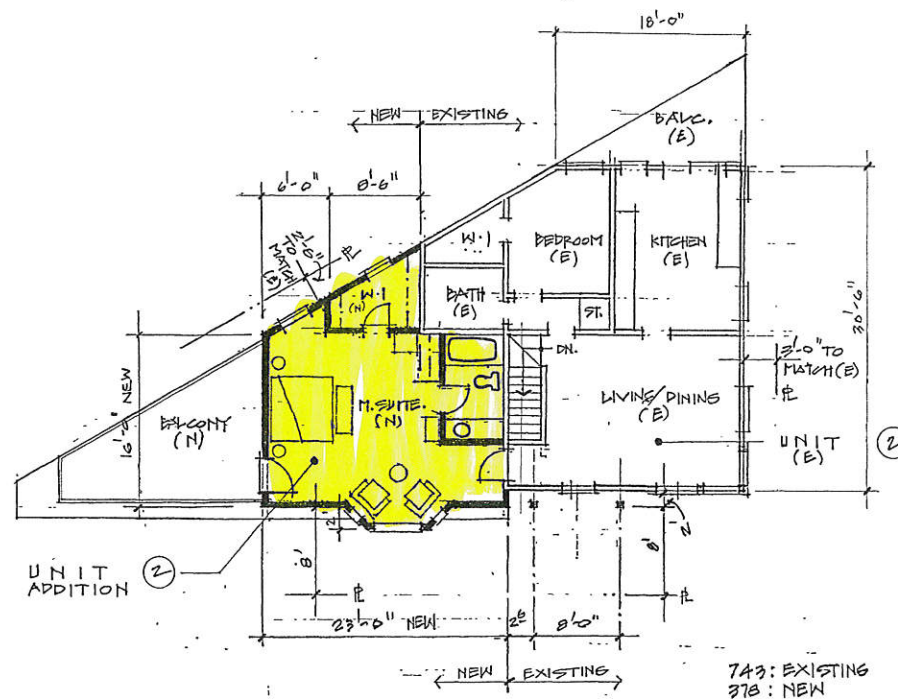
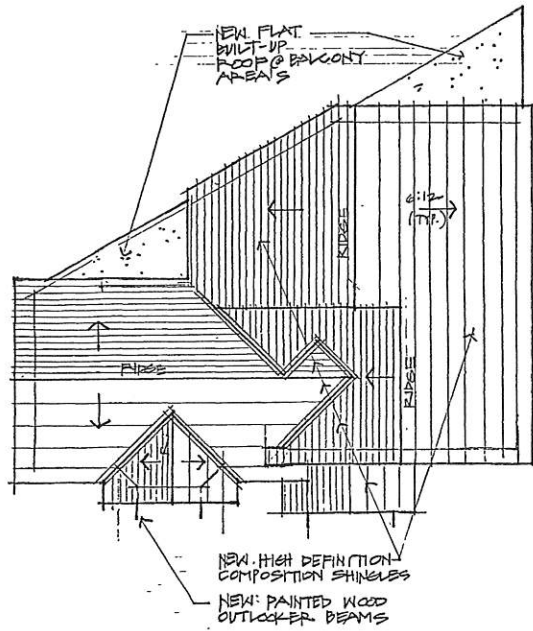
SECTION 3. FINDINGS FOR DENIAL.

The Planning Commission may approve a variance only after making each of the required findings set forth in Section 20.52.090 (Variances). In this case, the Planning Commission was unable to make the required findings based upon the following:

1. The Variance application for the proposed addition to the existing duplex is not consistent with the legislative intent of Title 20 of the Municipal Code and that findings required by Section 20.52.090 are not supported in this case. The proposed project may prove detrimental to the community.
2. The design, location, size, and characteristics of the proposed project are not compatible with the single- or two-unit dwellings in the vicinity. The development may result in negative impacts to residents in the vicinity and would not be compatible with the enjoyment of the nearby residential properties.

Attachment No. PC 3

Plans Including Color Renderings



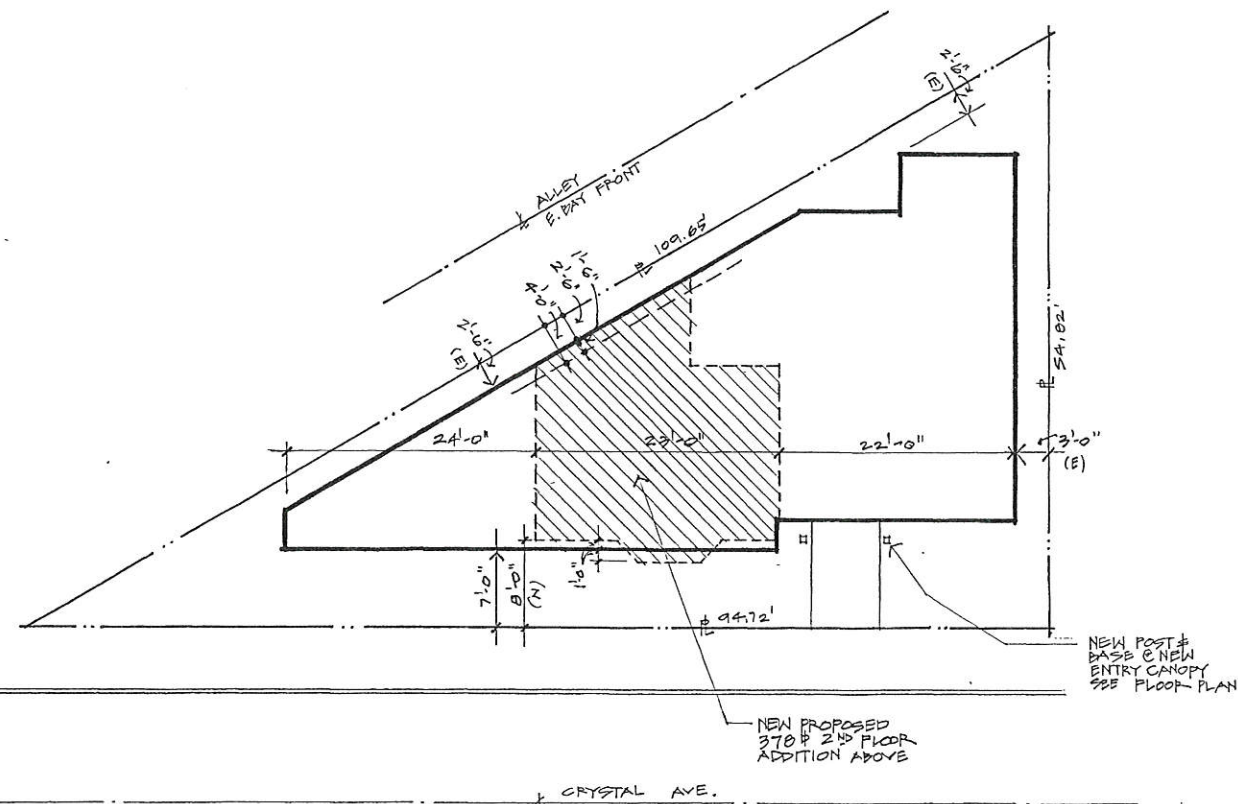
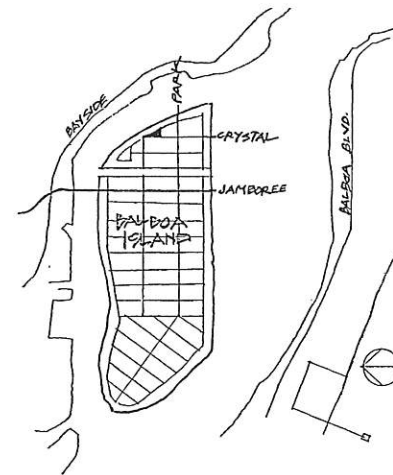
ROOF PLAN

SECOND FLOOR PLAN 1,121: TOTAL

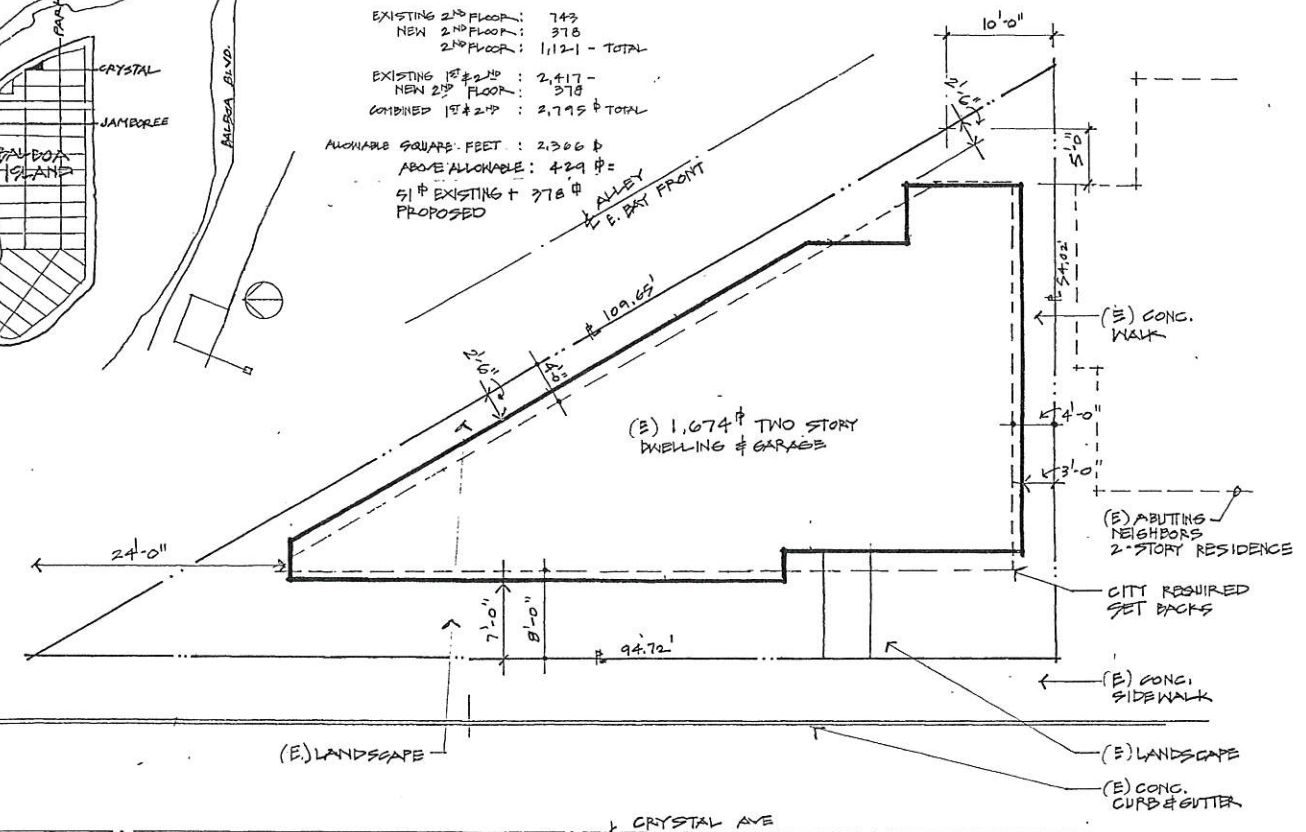
FIRST FLOOR PLAN 1,674: TOTAL (EXISTING)

LOT SIZE: 2,586 \pm
 BUILDABLE AREA: 1,444 \pm
 MAX. ALLOWABLE: $\times 1.5 = 2,166$
 BUILDABLE AREA: 2,366 \pm
 EXISTING 1ST FLOOR: 1,224 \pm HABITABLE
 450 - GARAGE
 EXISTING 1ST FLOOR: 1,674 - TOTAL
 EXISTING 2ND FLOOR: 743
 NEW 2ND FLOOR: 378
 2ND FLOOR: 1,121 - TOTAL
 EXISTING 1ST & 2ND: 2,417 -
 NEW 2ND FLOOR: 378
 COMBINED 1ST & 2ND: 2,795 \pm TOTAL

ALLOWABLE SQUARE FEET: 2,366 \pm
 ABOVE ALLOWABLE: 429 \pm
 51 \pm EXISTING + 378 \pm PROPOSED



SITE PLAN (PROPOSED)



SITE PLAN (EXISTING)

NORTH

SCALE 1/8" = 16'



ARTHUR F. KENT, A.I.A.

702/335-9956

325 A 2nd Street • Huntington Beach, CA 92648

216 CRYSTAL

1

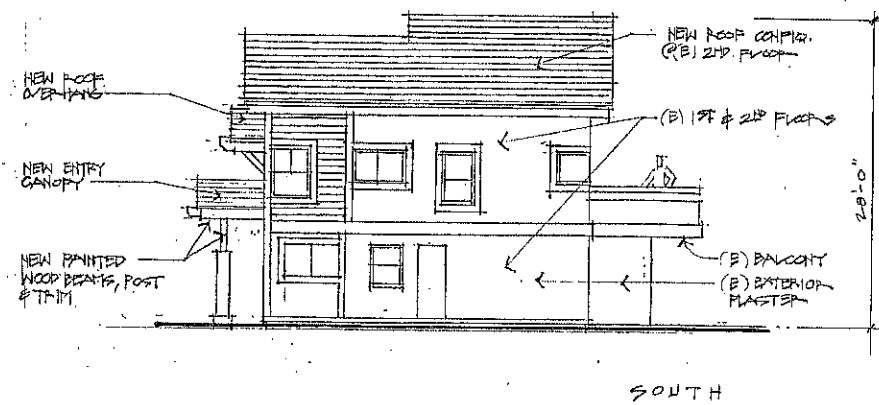


ARTHUR F. KENT, A.I.A.

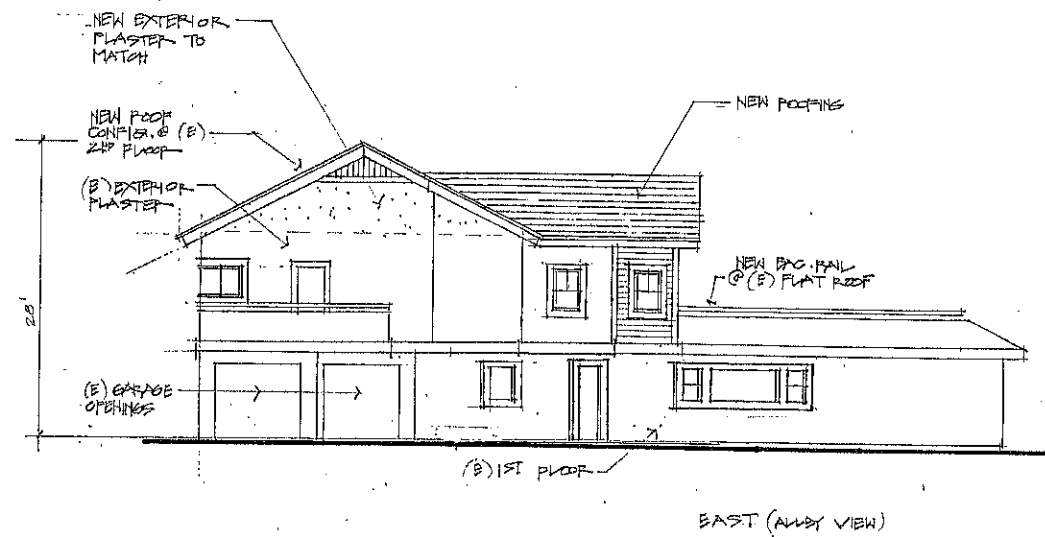
702/335-9958
333 A 2nd Street • Huntington Beach
CA 92648

216 CRYSTAL

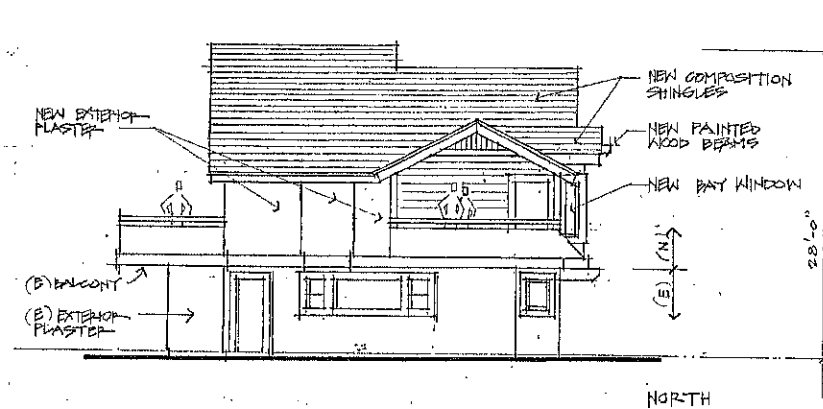
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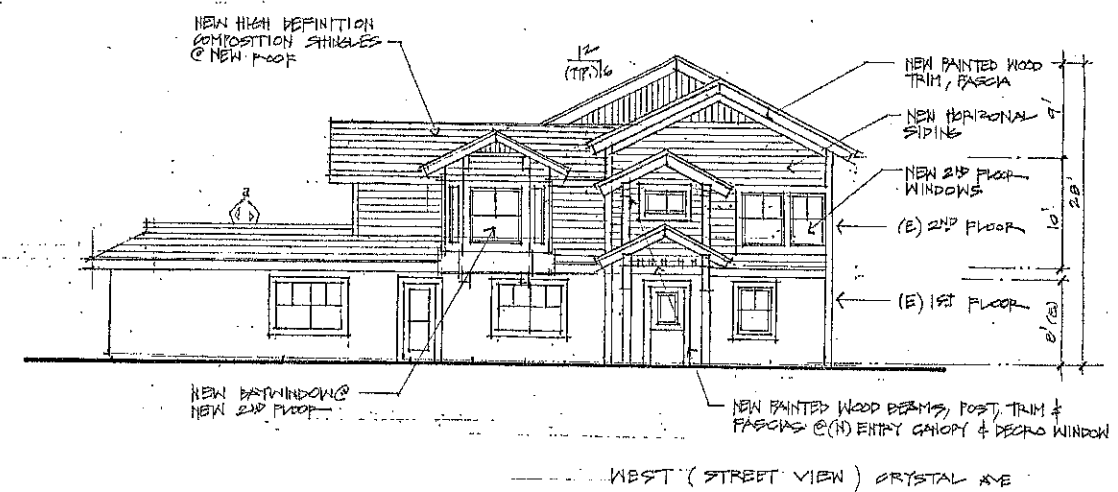
SOUTH



EAST (ALLEY VIEW)



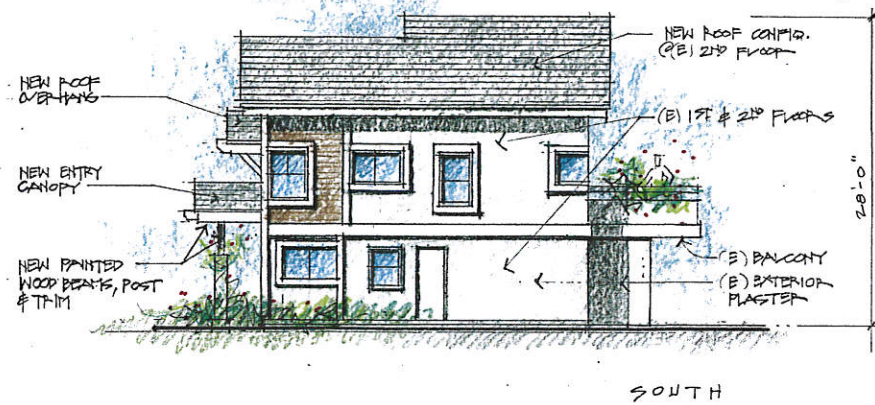
NORTH



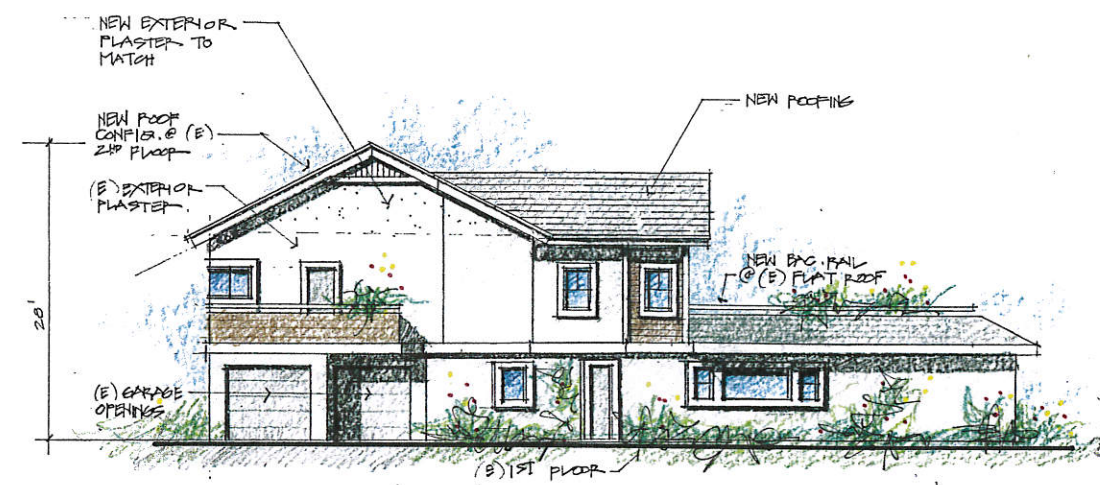
WEST (STREET VIEW) CRYSTAL AVE

EXTERIOR ELEVATIONS

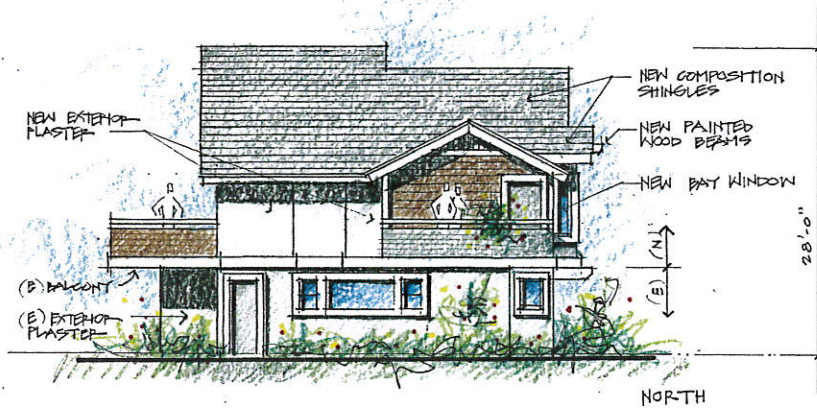
SCALE
1/8" = 1'-0"



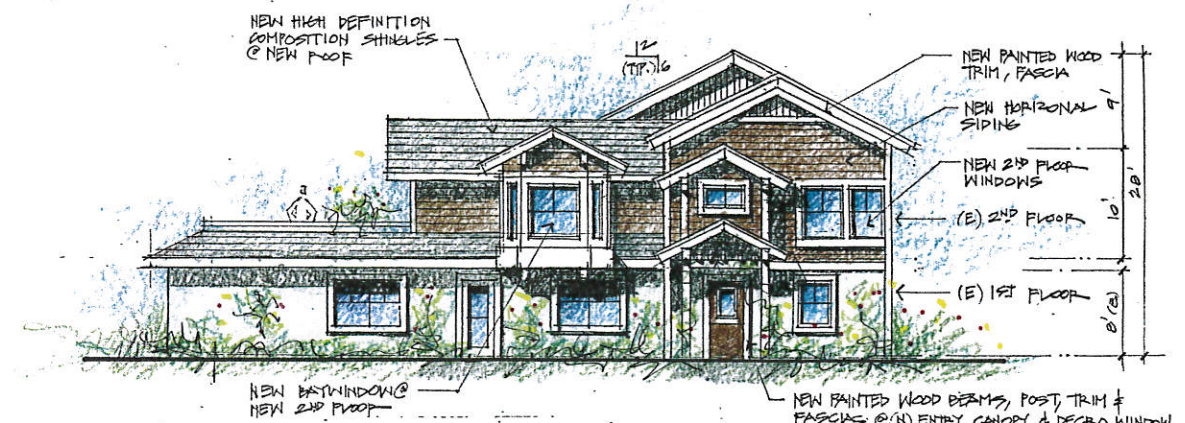
SOUTH



EAST (ALLEY VIEW)

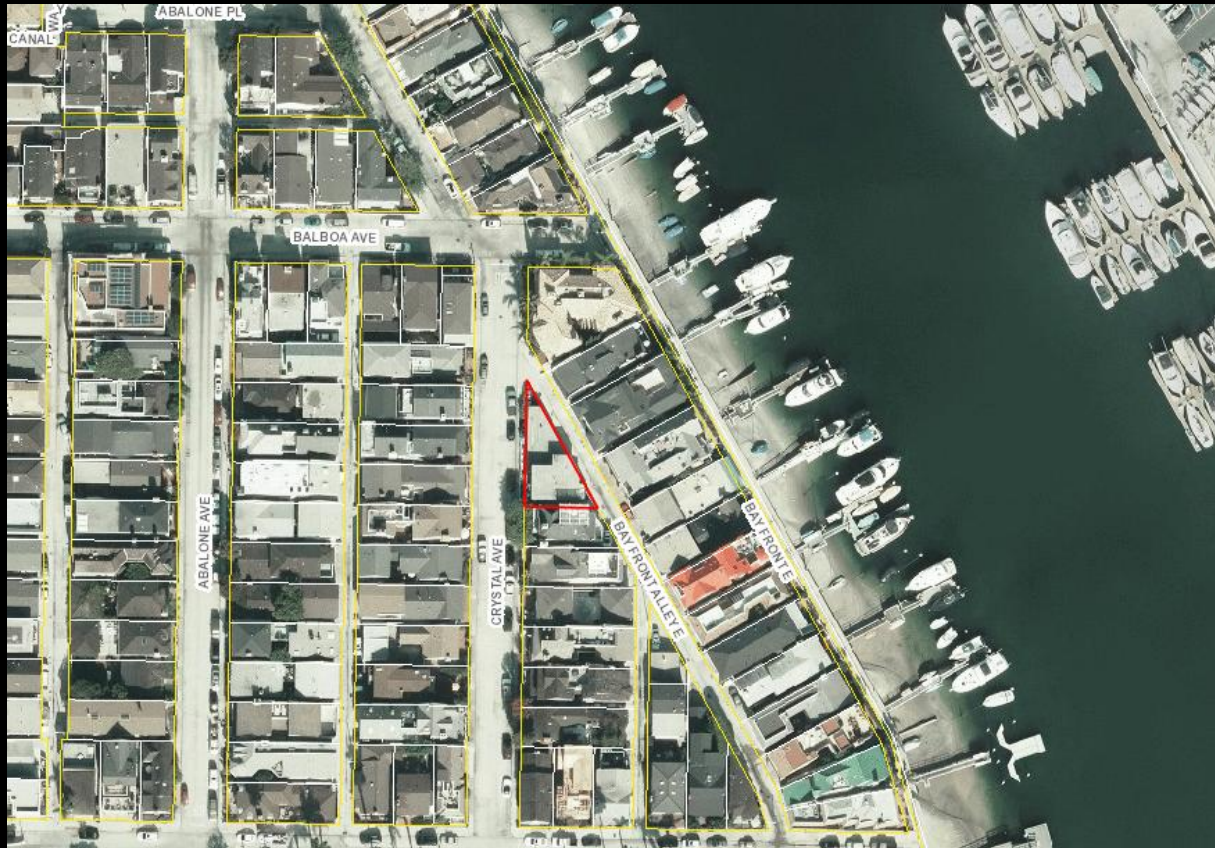


NORTH



WEST (STREET VIEW) CRYSTAL AVE

216 Crystal Avenue Variance



Planning Commission Public Hearing
September 19, 2013



Introduction



- Addition of 378 square foot master bedroom
- Variance
 - Exceed floor area by 429 sq. ft. (2,366 sq. ft.)
 - Encroach 1 foot 6 inches into side setback - line-up with existing structure
 - Existing parking – 1 car garage for each unit

Comparison to Typical Lot

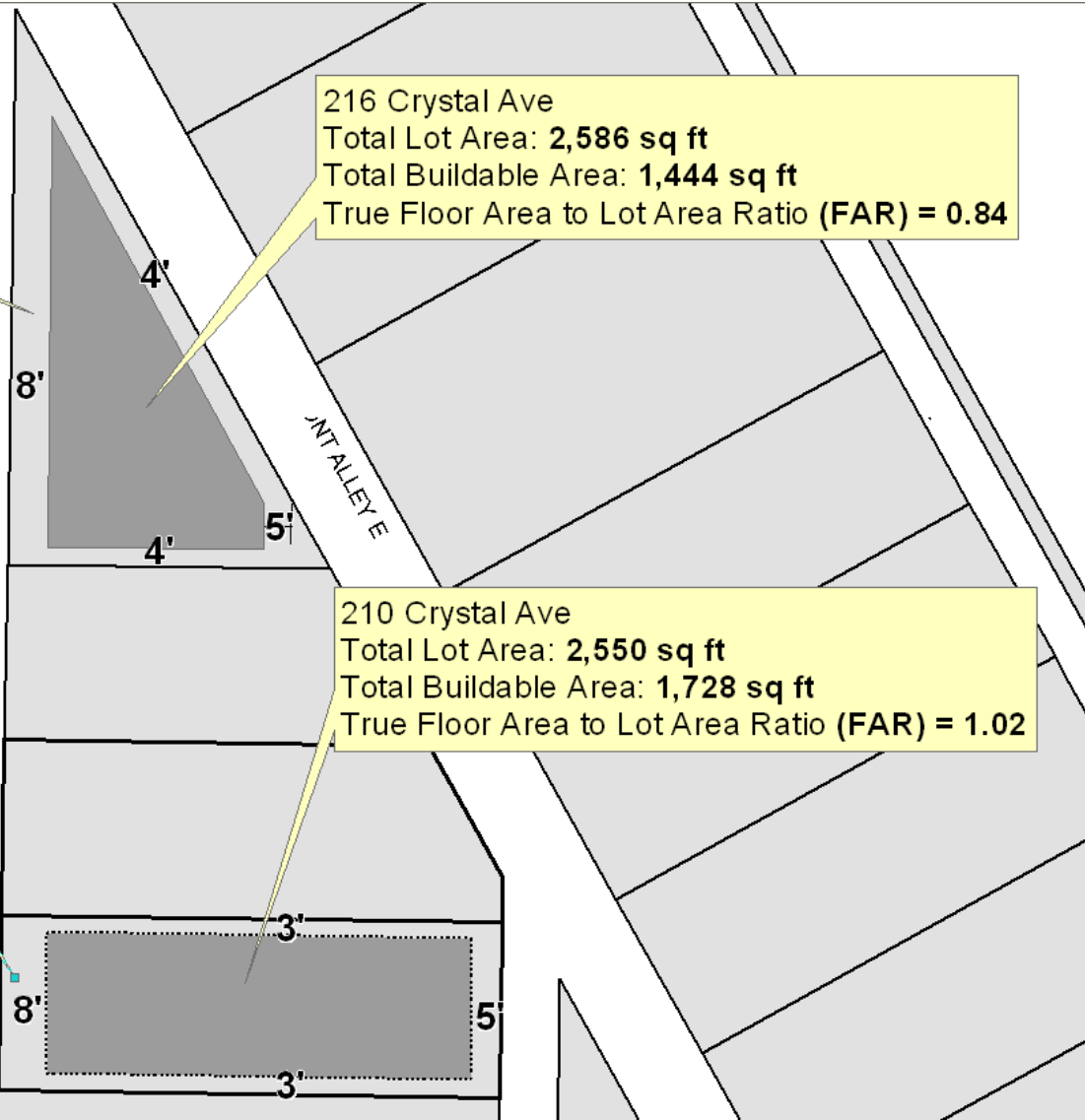


216 Crystal Ave
Front Set Back Area: 758 sq_ft

216 Crystal Ave
Total Lot Area: 2,586 sq ft
Total Buildable Area: 1,444 sq ft
True Floor Area to Lot Area Ratio (FAR) = 0.84

210 Crystal Ave (Typical Lot Size)
Front Set Back Area: 240 sq_ft

210 Crystal Ave
Total Lot Area: 2,550 sq ft
Total Buildable Area: 1,728 sq ft
True Floor Area to Lot Area Ratio (FAR) = 1.02



Facts



- Front yard setback area > 3 times the typical front yard
- 1.00 FAR is less than typical lot (1.02)
 - recent approvals of 1.04 FAR
- Setback in-line with existing structure
 - maintains adequate access and circulation
- One-car garage provided for each unit

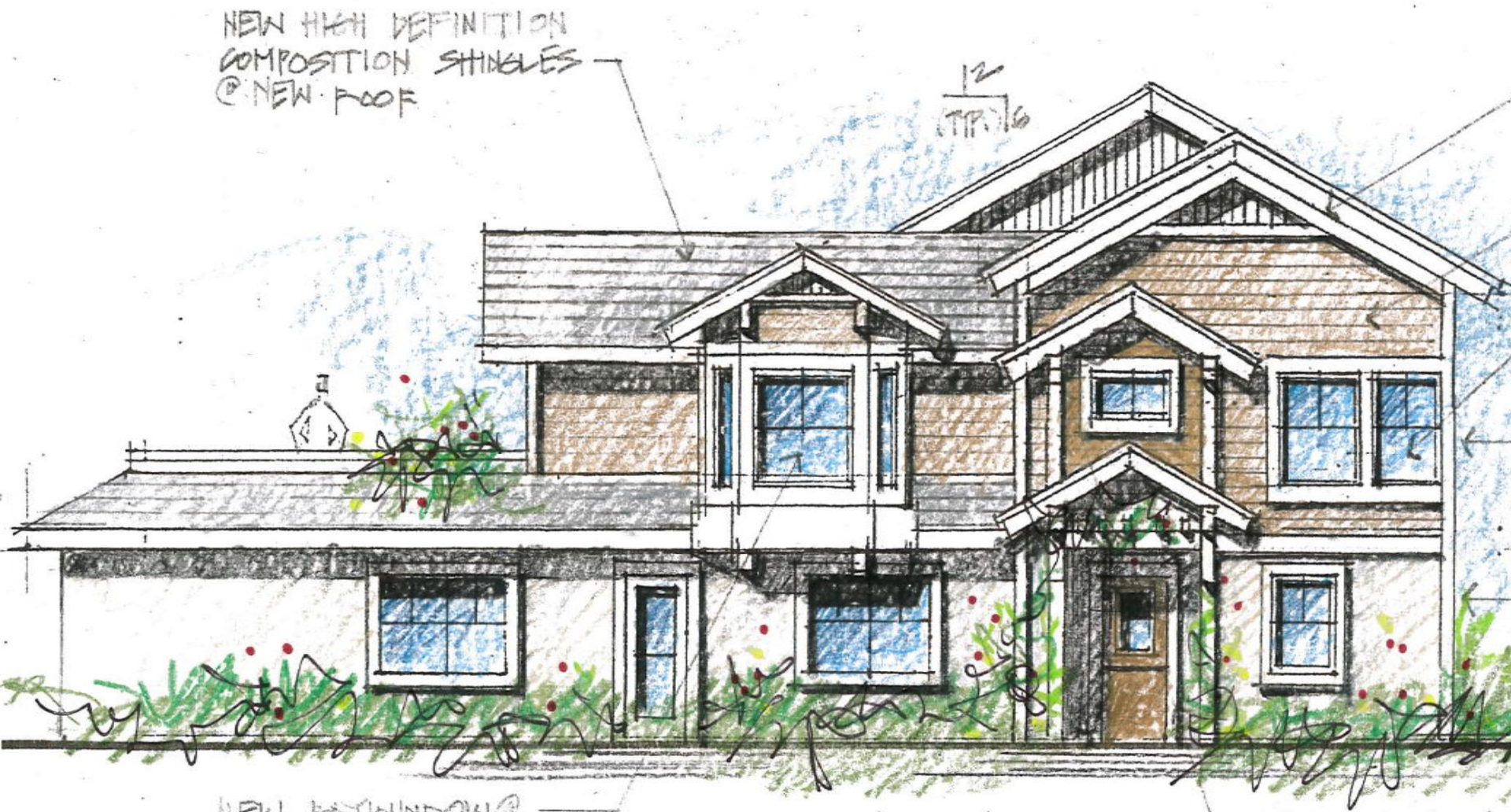
Existing



Existing



Proposed





For more information contact:

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mwhelan@newportbeachca.gov
www.newportbeachca.gov



